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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/664,327 | 09/17/2003 | Edmund Schiessle | SSHP0101PUSA | 4212 |

22045 7590 01/25/2006

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EXAMINER

FAULCON JR, LENWOOD

| | |
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| ART UNIT | PAPER NUMBER |
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3762

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,327

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| Applicant(s) | |
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SCHIESSLE ET AL.

Examiner

Lenwood Faulcon, Jr.

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| Art Unit |
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3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 and 5-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 and 5-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed November 3, 2005, have been fully considered but they are not persuasive. Examiner is of the position that it would have been obvious to one having ordinary skill in the art to combine the teachings of Gilham, Kamen and Levitan et al. to have the limitations of claims 3 and 5-17.

Claim Rejections - 35 USC § 103

2. Claims 3 and 5-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilham (U.S. Patent No. 5,622,178) in view of Kamen (U.S. Patent No. 5,682,901) and further in view of Levitan et al. as previously applied in the Office Action of June 2, 2005.

Gilham teaches of calculating an electronic scatter plot (col. 15 lines 41-44), which is inherently a virtual display as it created by a computer system. Kamen teaches of the ability to identify geometrical point patterns after generating a Poincare plot (col. 9 lines 24-38). Levitan et al. teaches that it would be desirable to provide electronic geometric pattern checking over a generated scatter plot to improve the detection of atrial fibrillation (col. 2 lines 52-57). Examiner takes the position that although Gilham does not explicitly teach of using geometrical point patterns/structures for the purpose of identifying conditions, as taught by Kamen, it would have been obvious to one having ordinary skill in the art to modify the system of Gilham to add such a feature to provide an enhanced capability of identifying conditions. Additionally, although Gilham does not explicitly teach of using electronic checking of a generating scatter plot, as suggested

by Levitan et al., it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system of Gilham to include such a feature to enhance the detection of a condition.

Further, Applicant is not claiming the visual display is a state signal; therefore, Examiner is of the position that any display that represents results of an electronic check could be used, which would include the visual results as suggested by Levitan et al. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Gilham, Kamen and Levitan et al., to have the limitations of claims 3 and 5-17.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. King (U.S. Patent No. 4,750,494), Throne (U.S. Patent No. 5,404,880), Morris (U.S. Patent No. 6,314,321), Kumar et al. (U.S. Patent No. 6,416,471), Ferguson et al. (U.S. Patent No. 6,454,708), Taha et al. (U.S. Patent No. 6,597,943), Ritscher et al. (US 2004/0092836), Glass et al. (WO 02/24068), Marciano et al., "Quantification of Poincare Maps for the Evaluation of Heart Rate Variability," (Computer in Cardiology, Sept. 1994, pp. 577-580), Huikuri et al., "Abnormalities in Beat-to-Beat Dynamics of Heart Rate Before the Spontaneous Onset of Life-Threatening Ventricular Tachyarrhythmias in Patients with Prior Myocardial Infarction," (Circulation, American Heart Association, Vol. 93, No. 10, May 15, 1996, Seiten 1836-1844).

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lenwood Faulcon, Jr. whose telephone number is 571-272-6090. The examiner can normally be reached on Monday-Thursday from 9 to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes, can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.


Art Unit: 3762

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lenwood Faulcon, Jr.



George Manuel
Primary Examiner